

TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

May 28, 2014

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:30 p.m. in Conference Room L101 in Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Kenneth Leggo
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski
Commissioner Brian Andrzejewski-A

Commissioners Absent

Staff Present

Craig Minor, Town Planner

II. APPROVAL OF AGENDA

Chairman Hall: Craig, you have an addition to the agenda. Everybody have that, it was on the table tonight.

Craig Minor: Yes, I suggest adding two items to the agenda. One is just for public hearing scheduling, but the other is for new business, so I suggest that you add under public hearing scheduling Item B, Petition 35-14: Special Exception (Section 6.3.4: Free Standing Sign at Constitution Square), Val Ginn, applicant; Town of Newington, owner, Val Ginn, 56 Farmingdale Road, Wethersfield CT, contact. This is the site of a farmer's market that the Commission approved last year for three years, I believe and Ms Ginn is asking that she be allowed to put up some signs to make people more aware of the farmer's market. She feels that not a lot of people know about it, so I'm suggesting that you add that to the agenda to have a public hearing for a sign, I have an illustration of what they will look like, I will pass this around.

Chairman Hall: Do you know when that is going to start, Craig?

Craig Minor: I'm not sure, I may have that in my notes, so I'm suggesting that you add that to the agenda, for discussion and I also suggest that you add under New Business, Item G, Petition 36-14: Site Plan Modification (Tent Sale) at 2985 Berlin Turnpike (Dick's Sporting Goods) Dick's Sporting Goods, applicant, Brixmor Property Group, owner, Tanya Atkielski, 2985 Berlin Turnpike, Newington, CT, contact. This is, as I said, a tent sale for Dick's. Apparently they have been planning this for a while, but just realized that they also need town approval. They are planning to begin it on June 27th, so they have asked that you add it to the agenda for New Business for tonight, not act on it tonight, but at least begin the

discussion tonight and then presumably act on it at your June 11 meeting. So Madam Chairman, I suggest those items be added to the agenda.

Chairman Hall: What's the pleasure of the Commission? Any objections? Seeing none, we will add this.

Commissioner Sobieski moved to add two items to the agenda. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

III. PUBLIC HEARINGS

Craig Minor: Madam Chairman, the first item, Petition 23-14, I inspected the site last Monday and the public notice sign is not up, so I recommend that you do not open the hearing on that item.

Chairman Hall: Any comments from the Commissioners. That's pretty straight forward, we require that the sign be up for ten days before. The vote was unanimously in favor of postponing Petition 23-14 with six voting yea.

- A. Petition 23-14: Special Exception (Section 6.2.4 Free Standing Sign) at 2551 Berlin Turnpike (Cody Plaza) Bianca Sign Incs., applicant 2551 Berlin Turnpike LLC, owner, Paul Bianca, Bianca American Signs Inc., 99 Newington Avenue, New Britain, CT, contact.**

Postponed

- B. Petition 30-14: Special Exception (Section 3.15.4: Drive through Restaurant at 1320 Berlin Turnpike (Panera). Norr Architects, applicant, Newington VF LLC owner, Bryan Slonski, 325 N. LaSalle Street, Suite 500 Chicago Il contact.**

Chairman Hall: Is the petitioner here? Come forward, state your name and address for the record.

Jeff LeBeau: I work with Freeman Companies in Hartford at 100 Welles Street, and I'm representing Panera Bread and also with me this evening is Rachael Turnalof, and she is with Norr Architects out of Chicago, Illinois.

Again, my name is Jeff LeBeau, I work as a licensed professional civil engineer with Freeman Companies out of Hartford, and we've been retained by Norr Architects to prepare a site plan for the permitting of a proposed drive through at an existing Panera Bread at 3120 Berlin Turnpike, which is right here. If you look at the rendering, north is up. On the north side of the building, what we have right now existing is just a driveway that goes to the dumpster pad. What we are proposing, I can talk about site plan and storm water drainage, that's pretty much my specialty, and Rachael can talk about operational Panera Bread issues or questions. What we are proposing on the north side is to re-locate the dumpster over to the east side, right here, which is currently landscaped. The total increase in impervious is approximately 900 square feet of added impervious area, which we have accounted for in two different locations where we have storm water management features which meet the new low impact development which I know is a town ordinance that was just adopted. Just to let you guys know, I did have a pre-application meeting, with the Town Engineer and Craig, to go over some of the issues, so we hope that we tackled most of this. This is proposed to be an

eleven foot wide drive aisle that comes around to a service window. It does have enough room for a by-pass, just right here where it bellies out. We are limited in this zone with the thirty-five foot green space setback. We do have one request, and I have a letter with me this evening. We would like to ask and request, and I have in writing a waiver of allowing the electrical transformer to be shifted five feet from this driveway. This would encroach five feet into the thirty-five foot offset. We are proposing to provide additional landscaping and screening from the Berlin Turnpike. At this point, I don't know if Rachael wants to talk about any operational.

Rachael Turnaloff: This is similar to what is just across the way in Wethersfield, the operational standards for that. Typically the way it is set up, they actually have double menu, so there is a preview board and a menu board, so that it will facilitate customers being able to make their selection and order quickly. There is a preview board here for a waiting car, and then the secondary menu board with the speaker box here, and then the pick-up window at the end. Panera, there will be as part of this, an internal renovation which will make modifications necessary to have the two separate equipment within the café to be able to serve both the interior and the drive through as any standard drive through café would, so there is no impact to the service or the customers inside and they have the separate setup for the drive through to make sure that is flowing as it should. Other than that, I guess I would wait to see if there are any questions.

Chairman Hall: Does anyone have any questions at the moment? No comments, no questions at this point. This is a public hearing, so we will also be asking for input from the public.

Commissioner Camillo: When you move the dumpster, are you going to have a concrete pad there?

Jeff LeBeau: That's correct.

Commissioner Camillo: Is that pad going to come out into the travel area of that parking lot now?

Jeff LeBeau: It does encroach a little bit, to accommodate the doors, but it will still be, obviously it's all within the mall, the greater property. It will be just up to the lease limits. But it would be slightly into the drive path.

Commissioner Camillo: So if you opened the gate to the dumpster, it would stop traffic?

Jeff LeBeau: Actually no, the swing, I don't know if you can see it on the site plan, we show the semi circle or arc's, the swinging gates, so the swing gate itself would not encroach on the traffic, it would be flush with the curbing that is existing, but they would need extra space just for access for when they are pulling.....

Commissioner Camillo: You are going to move the transformer.

Jeff LeBeau: Correct, we would propose to move that. It is currently in the front yard, right now it is not screened, so we are proposing to move it closer since it's the most logical spot and it would be easiest logistically to just shift it this way and then screen it as opposed to trying to tuck it in somewhere back here.

Commissioner Camillo: But you could do it if you had to.

Jeff LeBeau: I believe we could. We didn't go too far into that.

Rachael Turnaloff: I don't know for sure that we could tuck it in against the building, only because of the clearance requirement from the utility company and I don't know, moving it, I think we would have to move it further away from the building, outlying, in order to maintain the clearance for them, because we are pretty tight along here, between the building and the curb to put that, I don't know if.....

Commissioner Camillo: It does tie into the building anyway, so you could move it closer.

Jeff LeBeau: It could go in here, so to answer the question, yes it could be re-located to a different spot. This is the most logical spot if it is acceptable.

Commissioner Anest: What are your hours of operation?

Rachael Turnaloff: Same as the regular café, same as the interior service, which I think is seven a.m. to ten p.m. weekdays.

Commissioner Serra: On this site where you want to put the drive through, currently there is an egress there, there's a door, the main entrance and then there is a side door for customers to go in and out. Now I take it that will be closed off, will there be another door put somewhere else, or what's the plan there.

Jeff LeBeau: Where the outdoor patio is? I forgot to mention that. The outdoor patio, a portion of the outdoor patio will actually become the new drive through, and then we propose some of that to become a sidewalk, so we would still have the egress, right here. They are still proposing to keep that door.

Chairman Hall: So you are going to have the door and the cars moving in the same location?

Jeff LeBeau: I think this is just an exit.

Chairman Hall: But still, people will be coming out as the cars are coming through the drive through.

Rachael Turnaloff: But there is a full sidewalk, it's not limited.

Chairman Hall: How about some kind of fence or.....

Rachael Turnaloff: I'm sure we could do some kind of a fence or bollard or something along those lines, just to dissuade anybody from getting out of line.

Jeff LeBeau: The main entrance is right here, the double doors, and that I think is just a single outswing, so this isn't an entrance, so most traffic, pedestrian traffic will be this way.

Commissioner Serra: Well, I do know, because I do frequent and I do know, especially when they do events there, car shows, and other things, that door is used a lot by pedestrians.

Chairman Hall: In and out?

Commissioner Serra: In and out, yes.

Jeff LeBeau: I definitely think a bollard or two, with some other measure would probably be a good idea there.

Chairman Hall: I think more than a bollard because they will just go between them. It would have to be a rail.

Rachael Turnaloff: What we have done in the past is some decorative bollards with some railing in between, sort of connected to be attractive and also protective, which wouldn't be an issue, because we wouldn't want anyone crossing that way anyway.

Jeff LeBeau: So we could accommodate that for protection.

Commissioner Sobieski: So you are going to remove some of the outdoor patio, is that what you are doing right now? So there won't be any outdoor patio there at all?

Jeff LeBeau: That's my understanding.

Chairman Hall: Are you losing any parking spaces?

Jeff LeBeau: Yes, we are losing three parking spaces which are located just to the south of the handicapped spaces right here near the turn aisle. We did do the zoning parking calculation, we are still, based on, it's 2172 square feet is what is open to the public, so based on that formula, we would need 44 spaces, rounded up, and we are providing 53. We had 56, we lost three, so we're still over parked based on the zoning calculations. So we feel comfortable, operational we feel comfortable that this is still going to satisfy the customer base as far as the parking.

Commissioner Camillo: If someone is waiting for their order, and you have to move them through the line, where are they going to park and wait to have it brought out to them?

Rachael Turnaloff: Should that arise, we could have designated spots. Typically because the ordering and the serving is separate, the idea would be that you wouldn't be waiting for that. Based on how the flow is, and how they have set up the operation, where we have had concern with that is, we have gone in, up front, we've typically designated one or two spots for peak hours at breakfast and/or peak hours at lunch.

Commissioner Camillo: Where would you have them there?

Rachael Turnaloff: That location would be here, since it would be easy access for a partner inside coming out, either this door or that door, so if we wanted to look at that, we would probably want to put it over here, or have it close to that end.

Commissioner Camillo: There is a handicapped space right?

Rachael Turnaloff: Yeah, this is handicapped right now.

Commissioner Aieta: It's kind of a tight spot and you are trying to do a lot in limited space. Is there anyway that you could negotiate with the owner of the property to get that dumpster, it's outside the limits of your thing, but it's going to be sticking out, there's no screen around it....

Jeff LeBeau: There actually is screening and it's proposed split face block on the two sides. It should be in the back of your application package. Either the last, or second to the last

page. It's not rendered, but it's a black and white drawing, it's the CMU sidewalls, the side door, and it's supposed to be TREX, a plastic type of lumber.

Commissioner Aieta: Thank you.

Commissioner Andrzejewski: To the right of the handicapped spaces, on the south face of the building, you had said that you're going to have those spaces at peak hours for customers to park, and bring out the orders just in case there was a hold up at the drive through. Would that have a designated time frame to be set up for that specific purpose, or can customers also park there and go in, I'm sure everyone is trying to find a spot close to the building so they can get in and get out.

Rachael Turnaloff: I guess it would be based on concern if that's the way to manage traffic, if there was a consistent problem I would assume that they would at least want to mandate hours for that. We haven't had a consistent problem with it, but I certainly understand the thought process behind that because everybody is aware of their service, but what they try to do to avoid that is that they start the orders when the orders are placed, which is different than the in-café service. In-café service, they don't start your order until you are rung up, paid and walked away. They start their orders as soon as you start talking into the speaker box for the drive through, which actually, by the time you hit the window, it should be packaged up and ready to go. I guess I would look for your input if you have had experiences locally with that type of traffic management, if you had a recommendation regarding designated spots for the length of the service, or at peak hours, and how you guys had best managed that, for traffic.

Commissioner Aieta: How many cars queuing do you have?

Jeff LeBeau: We can get seven, from here around.

Commissioner Aieta: And if it was really successful, where would they end up queuing? Into the driveway?

Jeff LeBeau: They would have to back up this way. Obviously, as you know, this is a dead end loop here, so there shouldn't be a lot of traffic passing out this way. This sort of parking on the furthest end, but, yes, it's definitely a concern, but we feel that seven is definitely enough to queue here to allow the function to work, but if did get really busy, they'd have to queue this way.

Commissioner Aieta: The parking on this site, because they are a successful restaurant, the parking is, at some peak periods, they are parking on the other side, over there, I've seen it full, plus overflowing to the other lot, and they are parking over there, so I have concerns with queuing there because people are walking across to get to the front. It's actually closer to park there to get to the front door than it is to park on the southerly part of the site.

Chairman Hall: And they also come out from there. You have an exit, so you are coming from the parking area, and exiting the area. The cars, once they are finished, if you walked into the restaurant, and take your things out, then you get into you car, and you come back out, so if you are queuing there, you've got two way traffic, because you've got people waiting, and then you've got people coming out of the spaces and heading south to the exit.

Jeff LeBeau: You mean, coming out of here, and now you have the queue here. One way to manage it, just thinking on the fly, out loud, we could put some, we'd probably have to get

permission from the main property owner, but we could maybe encourage queuing with some stripping, and signage.

Rachael Turnaloff: One of the other things I think is important to consider is that a lot of the park, run in, pick up traffic is what is going to be diverted through the drive through. They don't we're not looking at a massive volume increase by adding the drive through, we're really looking at re-directing that take out component to the drive through. So, we're not thinking about, we're not anticipating that this would add many more trips to the site, and actually would actually alleviate some of the parking problems because you won't have that, I want to get a coffee and bagel for breakfast, I have to park and go inside and come out again, instead, I can go through the drive through and they typically, it's typically thirty percent of their business, just on the whole and on an average for certain hours, it's probably twenty visits an hour when you are thinking of traffic flow through the drive through.

Commissioner Leggo: Along with queuing, I mean, I know I went to the part here, the front, where it shows seven vehicles, but there are actually only two vehicles, three counting the one that is ordering, in that little queuing space, for any reason, yeah, you're only got two vehicles that can go there, so you could be sticking out. I just don't know if there is any way to re-route that so you can get more cars in there. That's two way traffic there.

Jeff LeBeau: Yeah, it was challenging. We tried to fit it as best we could. One of the challenges that we did have to look at was not, we're weren't allowed because of the lease lines, is that we wanted to eliminate one of these parking spaces to bring this up further, but that, we weren't allowed to do that from a land owner perspective. We could still look at maybe some signage, we'd have to get permission for that, signage or stripping.

Commissioner Serra: One more question, after they come through the drive through, they get their order, they are coming out, which way are you stripping, or having them come out?

Jeff LeBeau: They would come out this way, we are encouraging them to come out this way. This was designed right here that they are going to be in alignment with this outflow.

Commissioner Serra: So anyone parking, going into the building has to cross that line.

Jeff LeBeau: Parking here?

Commissioner Serra: Yes.

Chairman Hall: Anywhere there.

Jeff LeBeau: Correct.

Commissioner Sobieski: You might want to think about putting some hash marks in there for pedestrian walkways and stuff.

Jeff LeBeau: Right, just getting these people up, right, at the crosswalk?

Commissioner Sobieski: Well, I was thinking more or less where the island comes out through there.

Jeff LeBeau: Here?

Commissioner Sobieski: Yeah.

Jeff LeBeau: We could provide that, I think we actually did show a painted line and a sign, Do Not Enter, but that is definitely something we can add. We can put one of those white stop bars here, and we are proposing a Do Not Enter sign, so we can put a white stop bar and add a crosswalk.

Commissioner Sobieski: Also, where the dumpster is going to be is going to impede your flow of traffic around that piece there.

Jeff LeBeau: If we needed to, we could, this is their standard template, we could propose to them that we have to match the curb line, just so it eliminates confusion and issues with traffic.

Chairman Hall: Now, when they come out of the drive through, why couldn't you direct them down that entire aisle and then out because there is an exit down at the bottom there. Going down, down, down, down, and then there is an exit out there. Why couldn't you have arrows bringing them all the way down that aisle and out and then you keep them away from the front door.

Jeff LeBeau: Oh, instead of coming across this way?

Chairman Hall: Yes. Have them go down and out.

Commissioner Serra: I think that is a safer way to do it.

Jeff LeBeau: Right, but you're not proposing keeping this along the edge.....

Chairman Hall: Just have them go down the aisle. There's a natural aisle there already.

Jeff LeBeau: Then they could make this turn, then they go down here and then out. We could do that. Most people I think are just going to try to shoot across.....

Chairman Hall: Well, not if you arrow them.

Commissioner Sobieski: Or sign it, that says Do Not Enter.

Commissioner Anest: I have a question. Up near the building, the ingress and egress from the parking lot, and then there is one down below, is there a way that you could put both of them down lower so you wouldn't have that problem with people exiting?

Jeff LeBeau: Eliminate this curb cut?

Commissioner Anest: Yes, maybe relocate, I don't know, I'm just throwing out, I'm concerned about the queuing and the traffic, and the traffic from Wal-Mart as well, because that is really, especially around the holidays, it's chaotic there.

Commissioner Aieta: That's where the bottleneck is, when people pull up to the bar, that's the queuing right there and Ken is saying it's a couple of cars, and that's the bottleneck because people get up there, they're looking at the board, they're deciding what they are going to eat, and there can only be two other people in line to keep it on that piece of property. Then you start queuing into the travel lane.

Commissioner Anest: Where's the first menu board?

Jeff LeBeau: The first one would be right here.

Commissioner Anest: And then where do you order?

Jeff LeBeau: At the second one.

Commissioner Anest: So there is only like a one car difference. Where the menu board is, to where you order, how many cars can fit in between that?

Jeff LeBeau: There's two menu boards, the first one, and then one queue, one, two, and three.

Commissioner Anest: So when you are looking at the menu board, when you move up to the next spot, you have to place your order.

Commissioner Leggo: TM-1 shows it with the cars.

Jeff LeBeau: Yeah, TM-1 shows it, you probably could get four, three to four.

Commissioner Leggo: Print TM-1 shows the cars in line.

Chairman Hall: Now I have one more question, the dumpster, how is that emptied? See, you had a driveway before where they could drive in, get off the driveway, pick it up and exit. Now you are right in the driveway. How are you going to do that?

Jeff LeBeau: They would have to use this drive aisle. That's why we proposed to them to locate it on this corner of the building so that you would actually have the trucks be able to get in, do whatever turning, a K-turn.....

Chairman Hall: Because they would have to back in.

Jeff LeBeau: I think it's a front loader. But either way, you would have enough with these two way drive aisles, have a truck do a K-turn and then get in there and then back out.

Chairman Hall: What time of day do they pick up?

Rachael Turnaloft: I don't know what their schedule is, I can find out from the manager.

Chairman Hall: I think that would be important because your business traffic starts at seven, I'm sure, so.....

Any other questions before we go to the public? Anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition to this proposal? Come forward, state your name and address for the record.

Jeff Zelek, 55 Welles Drive North: I'm not really speaking against, but I'm not speaking in favor either.

Chairman Hall: So that would be the third choice, that's what I usually do.

Jeff Zelek: Okay, so what I do want to speak about is the request for the waiver, I'm concerned about the green space that you are being requested to, there is some type of a waiver that the applicant has asked for, I believe you should probably reference your regulations Section 6.10.4 specifically as it applies to new construction on the Berlin

Turnpike. The purpose of that particular section is to protect the property values and increase property values along the Berlin Turnpike. If a request for any modification to that buffer is requested, you should reference Section 6.10.5 (C) which gives you very specific instructions on what you can and cannot do when waiving the green space, so if you are going to entertain that type of a waiver, I would ask that each of the Commissioners please read into the record that you have in fact read those two sections and you are very familiar with them. I would also ask you to state on the record your reason for granting the waiver. This particular situation, I think that the obstacle of the request can easily be moved out of the green space, so if you could address that, I'd be very appreciative. Thank you.

Chairman Hall: And by "obstacle" you mean?

Jeff Zelek: Well, whatever it is they are asking to place in the green space, please tell us why, if you could have the applicant address that and alter their plans so the transformer will be out of the green space.

Commissioner Aieta: I think Mike addressed, he was getting at that point when he asked if it could be moved and they are well aware of the requirements of the thirty-five foot setback number one, number two, that requirement is in limbo itself because of the McKinsey case allowing us to waive any portion of our regulations, so there are a couple of things here. I think Mike was getting at the point of, you had better consider moving that, so we don't get into the situation where we might not be able to waive that portion of our regulations.

Chairman Hall: Thank you Jeff.

Anyone else wishing to speak in opposition? Anyone wishing to speak to the matter, not for, not against, but just wishing to speak. Seeing none, any other questions from the Commissioners at this point? Anything else that you folks would like to respond to?

Jeff LeBeau: Just listening to the last item, I think, you know obviously our initial contact with the contractor that would be performing the work stated some challenges. I think we can look further into it and probably accommodate the desires to get outside of that.

Chairman Hall: Anything else from anyone? Not that we are opposed to this, because I think each and every one of us would benefit from this, but we have to follow our regulations and we have to follow what is going to be best for the whole project, so, just so that you know that.

Commissioner Aieta: I suggest that we leave the public hearing open, there's so many questions that have to be answered, I think you have a lot of work to do in the next couple of weeks to try to answer some of those questions for us. I would suggest that we leave it open.

Chairman Hall: Any other comments? Consensus follows that train of thought that we leave it open? Okay. Thank you. We are going to leave this open for the next meeting, June 11th.

IV. PUBLIC PARTICIPATION (for items not listed on the agenda -each speaker limited to two minutes.

Gary Bolles, 28 Burdon Lane: Good evening. You have a very slight error on agenda item seven D, the address should be 218-240 Hartford Avenue, not Hartford Road. I just think that should be corrected so that there is no misunderstanding. Thank you.

Chairman Hall: And we are also one step ahead of you on that one because it is Mandell Properties, not Mandrell. Barbara has not moved to Newington. Thank you Mr. Bolles.

V. REMARKS BY COMMISSIONERS

None.

VI. MINUTES

May 14, 2014

Commissioner Leggo moved to accept the minutes of the May 14, 2014 Regular Meeting. The motion was seconded by Commissioner Serra. The vote was in favor of the motion with five voting YEA and one abstention.(Anest)

VII. NEW BUSINESS

A. Petition 18-14: Site Plan Approval (Commercial Building) at 2272 Berlin Turnpike. Parth Patel, applicant, Seva Sadan LLC, owner, Parth Patel 58 Meadow Lane, Berlin, CT, contact.

Alan Bongiovanni: Good evening, Members of the Commission, Staff, my name is Alan Bongiovanni, licensed land surveyor in the State of Connecticut representing Dr. Patel on the application before you. As you may recall, at the last meeting we made a presentation and we described the project in its entirety. Our architect was here and talked about the architecture of the building, we presented to the engineering department copies of our low impact design, features that we have added to the plan, rain gardens in this area. I think there was an outstanding issue of a request for a determination from the Town Attorney whether our request could be granted for the waiver of the landscaped set back, the thirty-five foot landscaping on the frontage of the Berlin Turnpike. I have not personally heard back on that so depending on how that response is, I have different ways I can return respond. So, if the Town has something to tell me,.....

Craig Minor: We do not have a written opinion from the Town Attorney.

Alan Bongiovanni: Okay. The, in an effort not to stall this project, Dr. Patel is geared up and ready to go on this project, I would suggest that you do not grant my request for a waiver of this Section 6.10.4 to accommodate just one, two, three, four, five, six, seven, eight, nine parking spaces. We would ask for approval without that. We have more than enough parking, we also have deferred parking spaces on the site, I'm going to tell you I'm going to come back to you, we're going to go for a variance to request this because it makes sense. I think we presented a good case why it could be granted, if there wasn't a legal problem here, so we think we will be successful on that, so we would like to proceed with the project, eliminating those nine spaces. If you see fit to approve this project, you could approve it with some sort of language possibly that if we are granted a variance we could put them in without having to come back again.

Chairman Hall: That would be through ZBA that you would apply.

Alan Bongiovanni: A variance from the ZBA so we like the project, we're going to approve it without those parking spaces, if you get the variance, then they can be installed. If you have any other questions, I would be happy to answer them.

Commissioner Aieta: I personally like the project, I think it is a great addition to the Berlin Turnpike, particularly in that location. We haven't seen a lot of activity north of Prospect Street in a long time, the look of the building, I'm familiar with the architect, we're happy with

the project, but that's the hang-up we had and it's a great solution that you came up with. I would, we know that you have enough parking because we told you you didn't have to put the parking on the bottom, so, and part of that, the new low impact, we're trying to cut back on the number of parking places. I think you came up with a good solution.

Chairman Hall: Any other comments? I think we are all very happy because we like the project, we like what it is going to do for that piece of property and certainly something that everybody can get behind and we'll also benefit from it as citizens of the town.

Commissioner Anest: I want to say, I wasn't here two weeks ago, but I did watch it, and I was very impressed with the project, and this is definitely the direction that the town needs to go in, with medical. It's a home run for the town, it really is.

Commissioner Aieta: So you will modify the plans to show those parking places on the driveway going to Prospect Street as being the ones to replace the ones that you are taking out.

Alan Bongiovanni: Yes.

Commissioner Aieta: For now.

Alan Bongiovanni: Yes.

Commissioner Aieta: You go to the ZBA, you get it approved, then you can.....

Alan Bongiovanni: Come back

Commissioner Aieta: Come back and meet the requirements. So you are going to make the changes to show that.

Alan Bongiovanni: Yes.

Commissioner Aieta: Good.

Chairman Hall: Okay, I think everyone is in agreement on this, at this point, I think we can just wait for the new plan and hope to see you on the 11th, everything done.

Alan Bongiovanni: Thank you very much.

Chairman Hall: Thank you.

B. Petition 22-14: TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks tent Sale at 2985 Berlin Turnpike (Turnpike Plaza) TNT Fireworks, applicant, Brixmore Property Group, owner, Brian Kearney, 93 Chembrook Road, Stratford, CT contact.

Brian Kearney: Good evening Commissioners, Madam Chair, my name is Brian Kearney, 93 Chembrook Road, Stratford, Connecticut. I'm here to petition for an accessory outside use for a TNT Fireworks tent at 2985 Berlin Turnpike, Turnpike Plaza, we have a lease with the Brixmore Property Group and we are looking to set dates as June 20th to July 5th. As it is set right now, we have, as you enter the plaza from Pascone Place continue straight through there, on the right hand side we would erect a 20 x 40 foot tent taking up five parking spaces in their lot. We have operated in the town a few times in the past, typically at the Wal-Mart,

two years ago at the Wal-Mart in Newington. We are changing spots this year because we weren't granted to be on the Wal-Mart property this year, so being without a home in Newington, we decided to move to this spot. Does anyone have any questions?

Commissioner Aieta: Just so you know, we have been through the drill before, we don't allow any signs, temporary signs on the Berlin Turnpike, A frame signs, small placard signs, plastered up and down the Berlin Turnpike. You should explain to us what you are going to do for signage on that tent. Also, we have on that same piece of property, the Dick's piece, I'd like to know what time, from the Planner, when they propose to have their tent sale, within the same proximity of where yours is. That's a lot of activity in there. You are taking parking places from the Chili's Restaurant, it's only five places, but you should address the signage for the Commissioners.

Brian Kearney: We are aware that in town there is only one sign, and that is something we have learned in the past. That one sign will be attached to the tent, and that would be it. It's a banner sign, two foot by twelve foot, and we would strictly adhere to that because that is all you can have here in town. As far as overflow parking for Chili's, I can't speak to as far as parking space count, but I can say we are taking up five parking spaces, I don't know as far as Dick's, when their petition was to put up a tent, I think I also heard that in the beginning and someone say it may overflow, or overlap, I'm sorry, with our tent sale. Again, there is just one sign, a two foot by twelve foot sign, attached to the tent.

Commissioner Aieta: How are you locating the tent on that, on the five parking spaces. Is the entrance to the tent on the east side, which would be toward the Berlin Turnpike, it can't be on the west because you're in the travel lane.

Brian Kearney: Correct, it would be on the east side.

Commissioner Aieta: Where are you putting the banner?

Brian Kearney: The banner would also be on the east side.

Commissioner Anest: Are you going to have a container to store the fireworks when you are closed?

Brian Kearney: We have moved away from the use of containers, what we are using now is a sixteen foot box truck regulated under DOT specs.

Commissioner Anest: And where is that going to be parked?

Brian Kearney: As far out of the way as possible. I know that parking may be an issue on this site, and I know that we would try to keep that as far away from our area and as far away from Chili's parking lot as we could, but still within eyeshot. We don't want to leave that unattended.

Commissioner Serra: Is that truck signed or lettered in any way?

Brian Kearney: It's placarded in under DOT.

Commissioner Serra: I mean as far as fireworks?

Brian Kearney: No, no. We really don't want people to know what is in there.

Commissioner Serra: That's why I'm asking.

Commissioner Aieta: Can we find out when Dick's.....

Commissioner Leggo: It's the same time.

Commissioner Serra: 6/27 to 7/13.

Commissioner Aieta: Those are exactly the same dates. Maybe it's not a problem, it's a pretty big parking lot. Just raising the question.

Chairman Hall: My concern, driving through that area, where they want to put this tent, is extremely tight. As you are coming down this driveway, the tent will be right here. It is also the entrance to both Chili's and that plaza, and that plaza, during that period of time remember, has the yogurt place. During June and July, that is going to be a very busy spot, depending on the weather. I mean, if it's a day like today, we don't have to worry about anything, because nobody is going to think about fireworks or ice cream, but that parking lot is very full and the tent being right on the driveway I think is going to be a distraction. I would hope that they could move it into the Dick's parking lot and then, lo and behold, yesterday we get another petition for another tent in the Dick's parking lot, so that's my biggest concern is that I think it's too tight, it's going to take five parking spaces sure, but people are not going to walk to this tent. They are going to be bringing their cars in, to make the purchase, and they are going to have to park those cars somewhere and make the purchase, and then if we have another tent sale, it will draw more cars, more parking. I don't know, can we have them both in the Dick's parking lot. That's a huge area that is not usually very well filled, but.....

Commissioner Anest: On the TNT application, it says, owner attached, I don't see an attachment. On the Dick's one, did the owner of the property sign off on it?

Craig Minor: The Dick's one, definitely not, and I explained to the applicant that we will certainly need the owner's signature before the Commission can take any action on it.

Commissioner Anest: The owner might not even know about it.

Craig Minor: Oh no, in fact, that was Dick's frustration, that the owner had been working with them all along, and only now did Dick's realize that they also need TPZ approval. So from what Tanya at Dick's told me, the owner definitely has already given his permission for it in fact, but has not signed the application.

Commissioner Anest: Now, did the owner tell you where he wanted the tent or did you say that that is your requested site?

Brian Kearney: We have a national deal with Brixmor, they leave it up to our interpretation to where we think would be the best spot. If it is the concern of the Commission that it is in a spot that may be too busy, and Madam Chair suggested that we may want to move it over to the other side of Dick's, that wouldn't be a problem at all. They are one hundred percent flexible as to where we place out tents. They just grant us the use of their property, and kind of leave it up to our discretion and of course the town discretion as well.

Commissioner Anest: I'm kind of concerned of the sight line too, the possible sight line problem with people pulling out and turning and not being able to see. I would be in favor of seeing if this could be relocated.

Commissioner Serra: It also seems, looking at the diagrams that those tents aren't going to be that far from each other.

Commissioner Anest: They might compliment each other.

Commissioner Sobieski: Did you look at the north end of the property? It's an area that doesn't get used that often. They park snow plows there and loaders.

Brian Kearney: Again, for the same reason that Madam Chair suggested with the yogurt shop opening, and it is going to be great weather this year, we wanted to be in the other spot, not where the snow plows are. But you're right, it is a less trafficked area. I think our concern though, to stay in compliance with that one sign, we wanted to be in a spot where....

Commissioner Aieta: You could see it from the turnpike.

Brian Kearney: Correct. We gave ourselves the most exposure that we could with that one sign.

Chairman Hall: Is there any reason why you were not going back to Wal-Mart, which is a bigger parking area.

Brian Kearney: I would love to go back to Wal-Mart. We actually set up there last year after it was approved, and once we set up there we got a phone call from a different company saying that Wal-Mart doesn't own the property nor can they sign off on anything being on the property. We have a national deal with Wal-Mart and lots of times Wal-Mart doesn't know what they own or grants us things that they can't grant us. We found that out last minute last year.

Commissioner Anest: Is that why you moved down the road.

Brian Kearney: Yes.

Chairman Hall: So, at this point I don't know. I'm concerned about the location and the traffic. If we can work on that a little bit, then, I'm not objecting to the fact that we will have another fire works tent.....

Commissioner Aieta: But it's only for a short period of time. You have enough time to consider all locations and come back at the next meeting.

Chairman Hall: Yeah, because you are not going to start until the.....

Brian Kearney: We're looking at the 20th, but realistically we can start the 28th and be okay. Your next meeting is June 11th?

Commissioner Aieta: Why don't you come up with a couple of different locations that you could live with and present those to the Commission at the next meeting, and we'll see if that meets the criteria that we're trying to meet, and your expectations of getting some exposure.

Brian Kearney: I appreciate that. Can I just ask you quickly if we moved it to the other side, across where Dick's is, would that be something that you would feel is more reasonable?

Chairman Hall: There is definitely more space there, I would feel more comfortable with that, but we would also see where the Dick's one is going to be because.....

Commissioner Aieta: The Dick's one, from the drawing looks like a pretty good size tent.

Chairman Hall: Right. I think it's bigger than the twenty by thirty.

Commissioner Leggo: Thirty by thirty.

Chairman Hall: So depending on where they would fit, although that is a pretty big area.

Brian Kearney: I mean, it is a huge parking lot, is it going to be an issue if both tents are up at the same time?

Chairman Hall: I don't think that would be the issue as long as there is enough flow around them, and the parking, and entrance and egress in a safe manner.

Brian Kearney: Okay.

Chairman Hall: I think that is what we would be concerned about.

Brian Kearney: So I can make those amendments and present again.

Chairman Hall: Then that night, because the timing is tight, we would be willing to move that to Old Business that night and vote on it, so we wouldn't hang on longer than that night.

Brian Kearney: Okay, thank you.

Chairman Hall: Thank you.

C. Petition 31-14: Site Plan Approval (Drive through Restaurant) at 3120 Berlin Turnpike, (Panera) Norr Architects, applicant, Newington VF LLC, owner, Brian Slonski, 325 N LaSalle Street, Suite 500 Chicago, IL, contact.

Jeff LeBeau: Okay, this is the same plan that you just saw. This is more of a formality, site plan approval for what Panera wants to do. With the exception of relocating the transformer, we believe the rest of the site has been designed to be in conformance with the town standards and regulations, as far as parking, storm water management, other set-backs. Obviously we are going to take into consideration what was just brought up at the public hearing, and come back to you with a revised site plan, that hopefully addresses the concerns of queuing, stacking, better pedestrian flow, protection of the egress, as well as relocating the transformer. I don't know if there are any other items that we didn't cover,

Chairman Hall: Dumpster.

Jeff LeBeau: The dumpster, concrete pad, thank you. If there are any questions?

Chairman Hall: Anything else that anyone can think of? I think we're good. Not much homework!

Jeff LeBeau: Thank you.

Commissioner Leggo: I know you said dumpster, but definitely the pick-up time?

Chairman Hall: Right.

D. Petition 32-14: Site Plan Approval (Building Addition) at 218-240 Hartford Avenue, (Data-Mail) Data-Mail Inc, applicant, Mandell Properties LLC, owner, James McCloskey 218 Hartford Avenue, Newington, CT, contact.

Alan Bongiovanni: Good evening, staff, for the record, my name is Alan Bongiovanni, President of the Bongiovanni Group, licensed land surveyor in the State of Connecticut, and I'm here representing Mandell Properties LLC, and Data-Mail. As I'm sure you are all aware, they are located at 218-240 Hartford Avenue on the north side, just westerly of North Mountain Road. It's a 14.6 acre parcel with about a 208,000 square foot printing facility on the property, it's in the PD Zone. Their proposal, and it's shown, this is the entire property, this is the building, to remove and old, I think it was at one time a restaurant,

Commissioner Anest: Ivy Hill.

Alan Bongiovanni: Right, I couldn't think of the name. The Ivy Hill Lounge building in this location here, and remove some parking, to construct a 13,144 square foot warehouse addition. Our proposal is to take the building and the parking and the associated utilities out of this area, and add onto the building, as such. The roof will be a flat roof with a slight pitch that pitches to the east. The roof drainage will be captured into a pipe system that is brought into the storm drainage system. There's only about 1500 square feet of additional impervious area with the addition of this building, given all of the parking we are going to take out and the roughly 2, 3000 square foot building. In order to accommodate that increased flow we have designed, in accordance with your new LID regulations, a rain garden in this area, and rerouted some drainage so that the parking in this area will drain towards this island. Remove the curbing, put in a depression with an outlet, an underdrain system, and have that water filter through that area, slow it down, and then go into the storm drainage system as it always has in the past. This site meets or exceeds all of the bulk and area requirements set forth in the PD Zone. This accounts for about 6.3 percent expansion to the existing building, per Section 5.3.9 (b) this would be considered a minor change and would be exempt from a site plan modification, but because it's over 13,000 square feet, we felt it would be appropriate to come before the Commission and present this because it will get a thorough review at the building permit process. This is a copy of what the architecture looks like. The upper elevation is looking from Hartford Avenue north. This is the existing building, it's, I believe it is split face masonry block, with metal panels up on the top, that's going to be the same coloration, same type of block extended here, the vertical steel siding. This is what would be the elevation from the east, looking at it, and then the north would be a mirror of this. There will only be two pass doors to the exterior of this building, it's going to be a solid walled building. All the access, and these would be emergency egress, all the access is through the building, it's just to expand the storage capacity.

Commissioner Aieta: So the interior of this is just going to be storage? There's not going to be offices or nobody.....

Alan Bongiovanni: No, clear span, open space, if anyone has ever been there, the big spools of paper, it's to store the big spools of paper. The raw material before they bring it to press. As far as parking, we are eliminating a couple of parking spaces. Currently they have 421 parking spaces, the parking requirement is one space for employee for the largest shift, they have 340 employees. We are going to lose 15 spaces, we'll still have 406 spaces, so there is more than enough to even accommodate the shift change and the overlapping personnel. Other than that, if you have any questions, I think it's a minor change to a very large building.

Chairman Hall: Questions?

Commissioner Aieta: Does the staff have any comments on this?

Craig Minor: We don't have comments yet. I haven't had a chance to review it and the Town Engineer hasn't reviewed it thoroughly. I looked at it a little bit, I don't see any glaring issues, but no, we don't have comments for you yet.

Commissioner Aieta: Okay.

Chairman Hall: I just have one question on the page, 6-7, where you have the rain garden, it looks as if there used to be parking spaces there, are those some that you are talking about eliminating?

Alan Bongiovanni: Yes.

Chairman Hall: And then you are going to have a berm? Is that going to be a grass berm, or what?

Alan Bongiovanni: It's a, it's a detail and I don't have a detail sheet, it's an earthen berm in that area there to capture the water.

Chairman Hall: That's what I thought, so okay, there will be no parking at all in that area, because.....

Alan Bongiovanni: It's going to be curbed, with the exception of this side here to let the sheet flow go in.

Chairman Hall: That's what I thought. Everybody else all set?

Commissioner Leggo: Just a clarification on the front corner there, to the property line, is there going to be, is there a drive going around?

Alan Bongiovanni: Currently there is a drive, access drive that goes to here. This building is going to displace that. There will not be, there's circulation around the entire building, but this driveway here will be terminated, and it really shouldn't, it should have not functioned for quite some time, it separates the employee parking in this area and the truck access comes in from the other way, so they don't really use that as a driveway.

Commissioner Leggo: So there will be no way to get from, I'm going to call it the front of the building, the Hartford Avenue.....

Alan Bongiovanni: You won't be able to go back to this location here.

Commissioner Leggo: So you would have to go around?

Alan Bongiovanni: Yes.

Chairman Hall: Everybody else all set? Thank you Alan.

Alan Bongiovanni: Thank you.

E. Tree Preservation Easement at "Packard's Way" Donna DiMauro, owner/contact.

Donna DiMauro: I'm the developer of Packard's Way. I was here at the previous meeting, and at that time, it was listed as Tree Preservation easement, and I would ask that that be changed as there is no such thing as a tree preservation easement on that property, there is a conservation easement. If you would make that correction I would appreciate it. I have two lots that have conservation easements on them, and I also have two documents, the first one is a Certificate of Action that was written by Ed Meehan and was approved on page one of the development approval. The conservation easement and the (inaudible) The Certificate of Action and the conservation easement recommendation or agreement. Those two documents that are in place, they both state that within the conservation open space area no grading and no clear cutting is allowed. The Town of Newington Conservation Commission regulations define clear cutting as a harvest of to remove all trees down to two inches in diameter. However, I'm being told that I cannot remove any trees from those areas, which is confusing to me. I assume that I have to abide by this.

Craig Minor: Do you want me to respond?

Chairman Hall: Please.

Craig Minor: Okay. Obviously I was not here when Packard's Way was approved, so one of the things that I did need to do when I got here was to familiarize myself with the record, and to see what the intent of the Commission was. Reading through the minutes of what I understand were quite a few public hearings and meetings with the neighbors and knowing that the Commission approved it with a stipulation that there be this, I mean, I don't want to be argumentative, whatever you want to call it, protection area in the back. The reason for that area was to protect visually the homeowners on Vincent Drive from having to endure the sight of some new homes in their backyard. So when I got here, and I discovered that the easement had never been written up, I then had to again, familiarize myself with the intent of this restriction, I'll use that word, that omission put on the subdivision. Again, my reading of the minutes was the intent of the restriction was to provide a visual barrier, so that's why, when I drafted the conservation easement or restriction, or whatever you want to call it, what I drafted, and I gave the Commissioners a copy of what I drafted and distributed to the attorney, and Donna, you have a copy also. It's the first preservation easement in the packet that you have, not the second one which was recorded. Now if you look at the first one which doesn't have any dates filled in, if you look at the second page of it, the second page, which begins with the phrase, the following are prohibited unless express consent is obtained from blah, blah, blah. If you go down to D, it says, the removal or destruction of trees, shrubs, or natural vegetation, the killing of wildlife, the spraying of pesticides, etc., etc., that's the way I wrote that sentence. I presented this to Ms. DiMauro's attorney, and we went over this document at quite some length, made many changes to it, the Town Attorney then recommended some changes to it, but then, at the last minute, and I will say it was a misunderstanding, I won't make any implementation other wise, because of a misunderstanding, what actually got recorded is the other document in your packet, and if you go to paragraph B, on the second page, it now says the clear cutting of trees is prohibited. I did not know that that was the phrase that was used in the document that was recorded. I never would have agreed to that.

Donna DiMauro: Excuse me, Mr. Minor.....

Craig Minor: I'm not finished yet, and I'm sure it was an honest substitution of wording but I was not aware of it at the time. Now, perhaps shame on me, I should have, I should have

known there was a change before I okayed it. But again, I had many communications with the attorney, I was never made aware that this wording was changed, if I was aware of it, I would have said, time out, I don't think that is acceptable, so that is why we have this difference of opinion as to whether it is clear cutting that is being prohibited, or any cutting. Now, if I'm all by myself out here in being diligent and protecting all of the trees, the Commission is certainly here to tell me, Craig, you are exaggerating our concern, don't be so restrictive about the cutting of trees. That's fine with me, but my understanding is that this was the intent of the Commission that no trees be cut in that area, to preserve the visual buffer. So, I'll give the floor back to you Donna.

Donna DiMauro: In the first place, I was here when Mr. Meehan was here and we discussed it at length. The interpretation and the intent of the conservation agreement. The intent was that it would be a visual buffer, as you said, and what it said to me was that there was to be no clear cutting or grading in that area. I then asked him, exactly what could I do in that area. Can I plant grass, can I have a garden, because in that area, the seventy-one foot area, thirty-five feet of it, abutting the Vincent Drive properties, has been clear cut by the Vincent Drive people, illegally, so if they hadn't done that, it would be a beautiful buffer. So I asked him what could I put a picnic table, put some swings out there, plant a garden where they have already cleared, what can I do, and what he told me is that I can have a picnic table, I can have the swing set, I cannot clear cut and/or grade, and Mr. Minor, you absolutely knew that this language was in there, I'm sorry, and you proofed it, and you didn't read it?

Craig Minor: Exactly. I trusted people, I mean, if you force me to say that, I'll say that.

Donna DiMauro: Is this not a legal document, I'm asking you, is this not a legal document?

Commissioner Anest: Craig, looking at this Certificate of Action, it says, no clear cutting of trees.

Craig Minor: Yes.

Commissioner Anest: So that's what the conservation easement should reflect, no clear cutting of trees.

Craig Minor: Okay.

Commissioner Anest: I mean, if I was given this document to draft a conservation easement, that's exactly the language I would put into it. So, I mean, I don't know where the other language, removal or destruction of trees, came from.

Craig Minor: Well, I chose to go beyond the wording of this particular sentence and go back to the actual minutes of the approval.

Commissioner Anest: And what did the minutes of the approval say?

Craig Minor: The sense is, that the purpose is to protect the visual buffer, merely preventing clear-cutting does nothing. The language does nothing. The phrase, there shall be no clear cutting is no protection what so ever. That means that you have to leave one tree out of twenty.

Chairman Hall: Is there a map associated with this document? Because when you just read it, you have no clue what they are talking about.

Craig Minor: That I could present to you, yes.

Chairman Hall: And also, the purpose of her sitting before us tonight is, for us to approve a document or I mean, I'm not quite sure, I know that this was presented to us tonight, on the table.

Donna DiMauro: The document exists, it's been recorded, approved and recorded.

Chairman Hall: Right, but what is the purpose of this tonight.

Donna DiMauro: I have had residents from Vincent Drive trespass on my property, as well as Mr. Petruzzi who had to get approval to take four trees down.....

Chairman Hall: Right, but that was not part of this conservation easement, that was abutting.

Craig Minor: No, no it was.

Chairman Hall: It was part of that?

Donna DiMauro: Yes. And he had to get permission, and according to this easement agreement, why do you need to get permission to take four trees down in a conservation easement? That just is beyond me, and I do know what the intent was Mr. Minor, I was there at those meetings, I know what the intent was, I have those minutes, I don't know what minutes you are referring to, and I asked you to provide those minutes to me, I asked you to call Mr. Meehan and you said that the intent was, to preserve the trees. I asked you to call Mr. Meehan and find out what the intent was and you refused. So, I think that would have taken care of everything. If you had called him and asked him what the intent was. That would have answered your question. Again, the people on Vincent Drive already clear cut thirty-five feet of my property.

Chairman Hall: And when did they do that, Donna?

Donna DiMauro: I don't know, I don't know, I spoke to one woman, the woman that came running up onto Mr. Petruzzi's property when he was going to cut a tree down, and told him that he had to stop and call the Town Hall, and he had to cease and desist from doing anything there, and some other people from Vincent Drive have approached the property and come onto the property, and said, you can't do anything on this property. Nothing can be done here, so that's when it became a concern as far as I knew, going by the document, nobody wants to clear cut that area, everyone wants their privacy but clearly the people on Vincent Drive already did infringe on that area, removing quite a bit of trees, and they have been using that property for many years. One of the residents that came onto the property said that she had personally, she and her husband had done it, probably twenty years ago, and said that they had permission from the former owners, but there is no documentation, and I know that I bought the home abutting that property from Attorney Richard Kaplick, who some of you know, Attorney Kaplick would never have allowed anyone to cut down thirty-five feet of the trees.

Chairman Hall: This all happened before this agreement was put into place?

Donna DiMauro: Yes.

Chairman Hall: So now you are here to clarify this agreement, and to come to some kind of reconciliation I guess we will call it.....

Donna DiMauro: I would like this to be honored. What it says in the conservation.....

Craig Minor: By me.

Donna DiMauro: Whoever is objecting, yes Mr. Minor. Mr. Minor believes that the term clear-cutting means that you cannot take any trees down. That's what he has told me, that's what clear cutting means, you cannot take any tree.

Craig Minor: Well, more precisely, the sentence that Ms. DiMauro was reading from the approval letter I just now realized goes further. It says, within this conservation open space area, no grading and no clear cutting of trees shall occur unless associated with storm water control required by the Town Engineer.

Donna DiMauro: And there is no storm water issue.

Craig Minor: Right. Exactly.

Donna DiMauro: So what's the problem with that?

Craig Minor: Again, if the Commission feels that I'm being overly conservative, that's fine, just say so, and I'm just doing what I thought was the will of the Commission, but if I'm wrong, just say so, and that's fine.

Commissioner Anest: If you could show us the minutes from the meetings, I mean, I would love to see exactly what the Commissioners.....

Craig Minor: Well, it's a stream of consciousness, it's all over the place, the sentences are not complete as you know, if you have read minutes that are verbatim.

Chairman Hall: But again, this was prior to just about everybody sitting here, wasn't it? Was there anyone? 2007, okay.

Craig Minor: I can do that, I can put together those minutes, it crosses over about six meetings, but I can do that.

Chairman Hall: I was on in '07, but it depends on the month, because I wasn't on until the end of the year.

Donna DiMauro: It was April.

Craig Minor: The meetings went on for about four or five months.

Donna DiMauro: Let me just clarify something Mr. Minor that you might not be aware of. In the minutes, the area was intended to be a buffer, an open space buffer. The concern arose because at that time the developer at the time was asking for eight lots, which was, really would have been close to Vincent Drive. The Commission decided that they wanted (inaudible), so that whole decision about open space was because they wanted eight lots. When they cut it back to six lots, it stayed. So, there are probably fifty, sixty, trees just on my lot, in that conservation area. I just don't see, to me it is just so clear, no pun intended, but I don't see why someone should have to get permission from anyone to take a few trees down on property that they own and that they pay taxes on. I don't want anyone else running onto my property and telling me I can't do this.

Commissioner Aieta: You have a document that is signed by whom?

Donna DiMauro: My lawyer, and Mr. Minor approved it. Mr. Minor and my attorney, Mr. Kuzmak went back and forth over this several times, as a matter of fact, Mr. Minor recommended that we put in there that the addition of a fence across the back of the properties would be acceptable, whether it be a fence or trees, or whatever.....

Commissioner Aieta: And that was filed?

Donna DiMauro: Yes. Filed in February of this year.

Commissioner Aieta: Then that's what we've got to live with, what was filed. I think we have to live with the agreement that was filed and signed by your attorney on your behalf.

Donna DiMauro: That's what I had thought.

Commissioner Aieta: I'm not sure what we are debating here. Clear cutting to me means that you go in and cut everything. Right down to the dirt. That's clear cutting, the brush, everything.

Craig Minor: Well then, what can't the homeowner do?

Commissioner Aieta: What can?

Chairman Hall: Can not

Craig Minor: If they can do anything up to clear cutting, they can cut down what, eighteen out of nineteen trees? How many? How much, how far can they go and be short of clear cutting? There's no answer.

Commissioner Aieta: The problem is, we have a document that was signed that says you can't clear cut.

Craig Minor: Well, not signed by the Town.

Commissioner Aieta: Defines what clear cutting is, so we are stuck with the document that was filed.

Craig Minor: It wasn't signed by the town, I mean.....

Donna DiMauro: It's legal, it was filed with the town.

Commissioner Anest: Donna, what you said the definition of clear cutting is from our conservation.

Donna DiMauro: Town of Newington, Conservation Commission regulations Inland Wetlands and Watercourses: Clear cutting means the harvest of timber in a fashion that removes all trees down to two inch in diameter at breast height.

Commissioner Anest: That's our definition.

Craig Minor: Well, no, that's the conservation Commission's definition.

Commissioner Anest: The Conservation Commission's definition.

Craig Minor: Not yours.

Commissioner Anest: Do we have a definition?

Craig Minor: No.

Donna DiMauro: This is what I would think, this is what has been told to me, if I have a dead tree on my lot that I have to go to the tree warden and have him come out and verify that the tree is dead before I can cut it down.

Craig Minor: Yes, and I said that to protect her, so if she cuts down a tree which was in fact dead, and we find out about it afterwards, we can't confirm that it was in fact, dead. So I suggest to her, simply let us know that you have a dead tree, we'll have the tree warden come out, document that it is dead, take it down, no problem.

Donna DiMauro: Why would I even have to go to the tree warden to have him.....

Craig Minor: What I just said, so that when your neighbor complains that you've cut down a tree, we'll be able to say to your neighbor, we're aware of it, we know that tree, it's a dead tree, everything is fine.

Donna DiMauro: Why is the neighbor even involved in my business.

Craig Minor: I'm just using that as an example why it's good to have things documented that are otherwise protected by an area that the Planning and Zoning Commission in its wisdom years ago chose to protect, that's why.

Commissioner Aieta: This is getting.....

Chairman Hall: Well, that's why I asked the question a period of time ago, as to what are your requests of us at this point, because, first of all, we just got this tonight, so there's nothing that we are going to be doing tonight for sure because what I would like everybody to do is to go back and read this, and if we are asked to do something, it won't be until a future meeting, but I also would like to have documentation that you are presenting tonight be part of that so that we can review it. If we are being asked to define clear cutting, if that's what we are being asked to do, then we need to think about that, and we need to have the documentation, if we're being asked to accept this, although I don't know what the difference would be because it's done, it's filed, correct?

Donna DiMauro: February 20th.

Chairman Hall: If that is what we are being asked to do, then we need to understand this document which means we all have to read it, we all have to study it, and then come back if we have anything. But my question remains, what are we being asked to do?

Donna DiMauro: I would really like, I would like to be able to go onto my property and if I find a tree that it's dead, I would like to be able to take it without the neighbors running onto my property, trespassing onto my property and telling me what I can't do on my property.

Chairman Hall: And who would be doing that? The Vincent Drive people?

Craig Minor: Well, let's say it's a zoning enforcement officer. If he sees you cutting trees, he's going to stop by and ask you to have a conversation about it. If you tell him, I'm just cutting down that one tree, he'd probably say, fine, but if you say, I'm cutting down those twelve trees, he's going to say, hmmm, let's talk about this. Let's think this through. Or, I'm going to cut down these fifty trees, I would hope he would say, let's take a look at this, let's think about this.

Donna DiMauro: I guess (inaudible) when you said that we have a document that has already been approved and filed and I don't understand why there is an issue with having to go to someone to ask to take a dead tree down, or a tree that is going to be in the way of a foundation, for excavation and I just, I don't think there even needs to be a discussion. I think this should speak for itself. I kind of assumed that, and I brought four copies of the, I know you don't have time to look at them now, but I will leave them. The people on Vincent Drive will stop trespassing, and it's not their fault. They have been told that nothing can happen in here and nothing can be taken down, not even any brush, can't even be cleaned up, it has to be untouched.

Craig Minor: Well I don't know who told them that, because that's incorrect.

Donna DiMauro: Well, I don't know either.

Craig Minor: My office is not telling anybody that.

Donna DiMauro: I know that that's what they were told. I'm not saying it was from you because it was obviously years ago, probably during the approval process. But they have been, that's what they believe. That nothing can be touched and these people came bounding out of their homes, and Mr. Petruzzi had to stop what he was doing, and could do nothing else to his property until it was brought to the Zoning Board, and then Mr. Minor came out and looked at the situation, and then he agreed to let him take four trees down,

Craig Minor: Well, I brought it back to the Commission.

Chairman Hall: We agreed to have you take the four trees down. So, I think at this point because this is a little bit like a cat chasing his tail at the moment, only because we need more information. I'd like in our packet next time, even if you have to re-issue this, and the Certificate of Action so that we can put things together, take a look at it, and then, what would we be discussing it under the next time? Old Business, I guess.

Donna DiMauro: Please don't put it under tree preservations.

Chairman Hall: Conservation area agreement?

Donna DiMauro: Yes. That would be fine.

Craig Minor: Well, the purpose of it was to protect the trees, right?

Commissioner Anest: It's a private conservation easement.

Craig Minor: That's just a word, the purpose of it was to protect the trees.

Donna DiMauro: No, the goal was to preserve the privacy of the people from Vincent Drive.

Craig Minor: Yes, the trees, because it is only the trees that provide that privacy.

Donna DiMauro: No, fences can provide privacy.

Craig Minor: They could.

Chairman Hall: As I said, this is getting no where at the moment, so let's retrack, get some more information.

Commissioner Sobieski: Craig, wouldn't that be on the plot plan, this location? This area?

Craig Minor: Yes, but that doesn't, I wish it was that simple.

Chairman Hall: We'll need that map too that I asked for earlier.

Craig Minor: The subdivision plan that shows the boundaries.

Commissioner Anest: The actual motion to see if there were any comments?

Craig Minor: I will have all of the minutes.

Commissioner Leggo: The term clear cutting, could we get a little more knowledge of that because I'm researched clear cutting and I've found clear cutting of a tree, clear cutting of an area, I mean, maybe for the next, when we bring this back up we can have a little better definition.

Commissioner Aieta: So as I understand it, this conservation area, seventy-five feet, was put in by this Commission to protect the Vincent Drive people with a buffer. In our regulations is a definition of what a buffer can be. Is this something from the Conservation Commission that they're not, it's not a wetlands.

Craig Minor: No, it's something different. It's actually in your subdivision regulations, it's actually the open space that all towns are allowed to require a developer to provide on a subdivision and what Newington did, when this subdivision was approved, was to invoke that law and told the developer to designate the northern portion of the subdivision as the open space.

Chairman Hall: Northern or western?

Craig Minor: Western, sorry.

Chairman Hall: Eastern.

Craig Minor: The top of the map, eastern. Thank you.

Donna DiMauro: And I think if you look at the minutes, it mentions, and Mr. Meehan was the one who brought it up, because he was concerned because I was developing that piece and a lot of those adjacent properties have deep lots, and he was concerned that in the future, what's to prevent somebody else from doing the same thing, and that's why he put that open space there. It had nothing to do with preserving trees, there's no endangered species there, there's no wetlands, there's no special trees.

Chairman Hall: Okay, we'll do our best to collect more information for next time.

Donna DiMauro: Should I come to the meeting?

Chairman Hall: If you want to.

Donna DiMauro: Yes, I want to.

Chairman Hall: Okay, thank you.

**F. Appointment of TPZ Commissioner to the Newington Town Council
Housing Needs Survey Committee as a TPZ representative.**

Chairman Hall: We had a memorandum that we modified

The TPZ has been asked by the Town Council to nominate a representative to the Town Council Housing Needs Survey Committee. Commissioner Leggo moved to nominate Robert Serra to serve on this committee as a TPZ representative to the committee.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

**G. Petition 36-14: Site Plan Modification (tent sale) at 2985 Berlin Turnpike
(Dick's Sporting Goods.) Dick's Sporting Goods, applicant, Brixmor
Property Group, owner, Tanya Atkielski, 2985 Berlin Turnpike, Newington,
CT, contact.**

Brent Atkins: Good evening, representing Dick's Sporting Goods at 2985 Berlin Turnpike. Basically we are just requesting to put a tent, I do want to make one correction, it's not going to be 30 x 30, it's going to be 20 x 60. Basically what they do is, they look at the conversion of foot traffic across a district, they consolidate all of the clearance from all of our stores, they pick two locations, they distribute it that way in an effort to get (inaudible) the old merchandise. Ours, Pittsfield, and Springfield will be the three locations if approved by you to set up. Keeping it in operation from 9:00 a.m to 9:30 at night. The dates will be the 27 to the 13th. June 27 to July 13. We'll be bringing the merchandise out every morning and bringing it in every night, so security shouldn't be an issue as far as that goes. We've reached out to the Fire Marshal to make sure he will come out and check it out, make sure we have all the appropriate exits, fire extinguishers, in accordance with that. I believe earlier when you were speaking with the TNT tent about if we had a signature, I think the one thing holding that up is that there is a fee that they charge us to be able to place another tent in this situation, there's a fee that we have to pay and we don't want to commit to the fee until we get permission from you, so once we get a little bit more clear on whether this will be allowed or not, we'll be able to obtain that.

Chairman Hall: So there is a fee that you have to pay in order to set your tent up.

Brent Atkins: At our particular location they charge us \$3500.00 to set up outside.

Chairman Hall: But you also mentioned TNT. Does that mean you would have to pay for that one too?

Brent Atkins: Oh no, absolutely not.

Chairman Hall: So how would that impact.....

Brent Atkins: I think there are pros and cons and of course we, I don't want to overwhelm our customers as far as having these huge tents in our section of the parking lot. I think having them in our plaza is going to draw more attention and hopefully the foot traffic will lead to them coming over to ours, so we're certainly not opposed to it, but at the same time, we don't want it to be impacting our customer convenience as well as our ability to have our own tent sale going on.

Chairman Hall: Okay, I can understand that. If you are finished with your presentation, I will ask for comments from the Commissioners.

Brent Atkins: I am.

Commissioner Aieta: The way it looks to me looking at the layout they provided, if we allow, TNT is going to come back, he's going to want to put it so you can see it from the Berlin Turnpike, so that only, it has to be in the two bays where his tent is going to be, or else you aren't going to see it because it's going to be blocked by the building. So when we said, come back and locate it on the other side, that's where he's going to come back and show us. It doesn't work because these tents are going to be twenty feet apart, thirty feet apart, it's not going to work. My suggestion is that we talk to the TNT people and tell him that if he wants to have it in that plaza he has to do it at the north end of the plaza. I don't know what else to do, I mean, if, you represent Dick's?

Chairman Hall: Right, so let's deal with that one at the moment, is the Dick's set-up, and I know what you are saying about the other.....

Commissioner Aieta: Yeah, someone is going to have to communicate with the TNT guy and tell him before you come back you have to consider going to the north end of the parking lot because we're not going to accept him being right next to the Dick's tent.

Commissioner Camillo: Maybe he should communicate that.

Commissioner Aieta: Well, he's not the property owner.

Chairman Hall: Well, I think it sort of came as a surprise to him tonight that this was even happening.

Brent Atkins: Absolutely. I did get in contact with my district manager, I'm the hard lines manager at this location, made him aware of it, and as I said, the pros and cons, we absolutely welcome the foot traffic, but again, if we're talking about taking up that whole section of tents, there is the concern of where our customers are parking, where they are driving, how, all of the issues that I'm sure all of you are aware of, so.....

Commissioner Anest: Where are you, on this little schematic on here, where are you proposing, is this the twenty by sixty tent going to go.

Brent Atkins: In that area so that looking at it.....

Craig Minor: That is to scale, I just did the math, that is to scale, that blob is roughly the scale. It's twenty by sixty, would be two parking spaces deep, by seven wide, roughly, so that's pretty much how big the tent is going to be.

Chairman Hall: It's got to be more of a rectangle though, this is more a square.

Brent Atkins: I think it's just going to run more parallel just taking up the full run of the parking spots, and that is why we chose to go away from the thirty by thirty. We didn't want to start hanging out and taking up just this awkward portion of the parking lot, we're trying to stay as adjacent as possible with it taking up as little spots as we can.

Chairman Hall: Other questions?

Commissioner Leggo: The top corner there up above where you referenced Chili's, says pylon?

Chairman Hall: That's the pylon sign that says Chili's, and.....

Commissioner Leggo: That's the existing sign?

Chairman Hall: Yes.

Commissioner Leggo: I was wondering if that was something added there or if that was just the sign.

Chairman Hall: Any others?

Commissioner Sobieski: How is the traffic flow going to work in there? It looks like you will be overhanging a little on the aisles here.

Craig Minor: I think it's just because she used a really thick Sharpie when she drew this.

Commissioner Sobieski: I was more concerned with the seven or eight spaces up against 160 Pascone, up there. You know where I'm talking about, where the word tent is Craig, those are the spaces I was more concerned with people trying to back in and out, as people are walking through there.

Craig Minor: Again, that's because she used a tube of lipstick to do this, rather than a fine point, because twenty by sixty, a parking space is eighteen feet deep, so this blob, it's roughly the amount, but it's not accurate, not precise enough to make the type of observation that you are rightfully raising.

Brent Atkins: It should run flush with it. As if a car was there, it shouldn't really impact those spots, and that's again, that's why we wanted to go with the twenty by sixty instead of the thirty by thirty.

Commissioner Sobieski: Where would your sign be?

Brent Atkins: Actually, we actually want to sign our store, it will be over the entrance to the store. We're not going to put anything on the tent. It's going to be seven foot, clearance event, and it's going to be above our actual.....

Commissioner Aieta: You have to come and take a permit for a temporary sign.

Brent Atkins: Absolutely.

Commissioner Aieta: It's not something that you can just put up, so it has to....

Chairman Hall: And you said you are starting that one on June 27th.

Brent Atkins: We'd like to, yes. Sorry for the short notice, we weren't really aware of what we needed to do to get your blessing.

Chairman Hall: Do you have any questions or comments, Craig?

Craig Minor: Well for starters I'll ask Tanya to resubmit this to show more precisely where the twenty by sixty tent will be because it could be along the left side of the property because a parking space is eighteen feet long by nine feet wide, roughly twenty feet, so you could use up some seven or eight spaces along the side of the property, and then that would prevent any issue with traffic circulation.

Brent Atkins: There was some mention of a bus lane, and we use that for associate parking too, but that is something that we could adjust, but I think that is originally why we didn't look towards that, because we have guidelines that we have to abide by for the plaza as well, where we have to park, but I'm sure for this, seven days, we can come to some sort of an agreement for this section.

Craig Minor: With the property owner you mean, his rules about circulation.

Brent Atkins: Yes, I'm sure we can adjust for that.

Commissioner Aieta: I think it goes back to what I said at the beginning. Someone is going to have to talk to this other guy because he's gong to come back with something that is not going to work, but I think the Planner should try to talk to him and tell him we're not going to look favorably on having it in the same area where this tent is. Tell him, put it in the north end of the parking lot.

Chairman Hall: Or, not at all.

Commissioner Aieta: Or not at all. The owner, unfortunately is from New York, so maybe he doesn't know what is going on with his own property. It's obvious, he's allowing, he's saying, you guys do what you want because you're the tenant. You got permission from him?

Brent Atkins: Yes.

Commissioner Aieta: And this other guy got permission.

Brent Atkins: And it's my understanding, I actually transferred from the Canton location, but last year they held it and didn't get any type of permission from the Fire Marshal, you guys, anything, so I mean, that's why we have been doing our research and going about this in the right way. We want to be complete compliance with everyone, but I think to your exact point, yeah, I don't know if he exactly knows what he's got going on here, or if he's just seeing dollar signs, and that's what it is.

Craig Minor: All right, I'll be in touch with both.

Brent Atkins: Thank you.

VIII. OLD BUSINESS

A. Petition 07-14: Special Exception (Section 3.2.9: Child Care) at 795 North Mountain Road Nguyen Holding LLC, owner/applicant, Hai Xavier Nguyen, 795 North Mountain Road, Newington CT, contact.

Chairman Hall: Make sure you read both sides of this paper that Craig just handed out. Did we get anything from them?

Commissioner Aieta: Are we pushing the time limit on this?

Craig Minor: We have sixty-five days from when the hearing closed, which was only a month or so ago, but I'll double check, but I don't think.....

Commissioner Aieta: It seems like this has been here forever.

Chairman Hall: Yeah, but we didn't close it. We kept it open for a long time. Sixty-five days from the date we closed it. So that would have been probably the last meeting in April. More conversation on this, anyone have any comments or questions, both sides?

Commissioner Leggo: I'll start. I just feel that it's not a good spot for the day care with the traffic flow and that narrow driveway. I'll mention it again, just doesn't feel right.

Commissioner Anest: I have issues with the driveway in that it is so narrow, I have issues with the snow storage, I just don't think it's the right fit for the area, and I'm going to be voting to deny this application.

Commissioner Aieta: We have two motions, on the other side of it, one side is a motion to approve, and the conditions of the approval are just too much, and it doesn't address the fact that the driveway is only a one access driveway, it doesn't really address the snow removal unless you remove the snow completely off the site, so I look at this, and I agree with Carol on the reasons for the denial, it doesn't fit the area. The traffic circulation is not adequate, the use I don't believe is the right use for an industrial zone, I don't think it protects the health and welfare of the children that would be attending the day care center and my concern is the safety of the children if we allowed this to go forward.

Commissioner Sobieski: I agree with all of the statements that have been made so far.

Commissioner Serra: I also agree with everything that everybody has said, but I do want to say, Mr. Nguyen has done everything that we have suggested to try to get this through, he's agreed to do things that were within his control, but the driveway, the snow removal, the safety factor of the children, the other things that Frank mentioned, some of the other Commissioners, I have to agree, this is just not a good fit. It's more of a safety issue for me, for the kids, the parking, the dropping off, it's just not a good fit, and I will be voting to deny this also.

Chairman Hall: Other comments?

Commissioner Leggo moved to deny Petition 07-14: Special Exception (Section 3.2.9) Child Care at 795 North Mountain Road, Nguyen Holding LLC, owner/applicant, Hai Xavier Nguyen, 795 North Mountain Road, Newington, CT, contact.

FINDINGS:

In accordance with Section 5.2 of the Zoning Regulations, the Commission considered the following criteria pertaining to the requested special exception and their potential impacts:

1. "The existing and probable future character of the neighborhood in which the use is located" (Section 5.2.6.B)

795 North Mountain Road is located in an industrial zone. There is a metal plating operation (Custom Metal Crafters") in the adjacent building at 815 North Mountain Road, located less than 40' from the proposed day care building. Being in such close proximity to a metal plating operation poses a potential health risk to the children who would be enrolled in the proposed day care.

2. "Traffic circulation within the site, amount, location and access to parking and traffic load or possible circulation problem on existing streets or proposed streets and driveways considering impact on existing streets are effected." (Section 5.2.6.D)

Access to parking is via a single driveway on the east side of the building, located between the building and a stone retaining wall. This passageway is very restricted (only 11.5' wide) which prevents two-way traffic, and could pose a problem for emergency vehicles attempting to access the rear of the building and/or the parking lot. This restricted access poses a potential safety risk to the children who would be enrolled in the proposed day care.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion to deny with six voting YEA.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 33-14: Special Exception (Section 3.2.5: Convalescent or Nursing Home) at 2125 Main Street. Middlewoods of Newington, owner/applicant, David Lawler, 580 Long Hill Avenue, Shelton CT, contact.

Craig Minor: This is for an addition to their parking.

Chairman Hall: Addition to their parking, can you give us a little bit more?

Craig Minor: Of course. I think there should be a sketch in your packet, and the sketch is, and it's a sketch, what the applicants would like to do, there is a section curb, of the curbed driveway, I'll say it's from like one to three o'clock. Right now there is parallel parking along the curb, along that stretch of driveway, what they would like to do is create about fifteen spaces of head on, head in parking and four more spaces in the circular driveway at the lower part of the parking lot. Now convalescent or nursing home is a special exception activity, and my recommendation, my philosophy is, whenever there is a substantial change, and substantial, that's subjective, but whenever there is a substantial change with special exception activity, it requires a fresh public hearing so that the neighbors, public have an opportunity to ask questions, and to comment on this change, whatever it might be. In this case, it's the addition of a fair amount of parking which is, unfortunately is right next to the abutting residential neighbor who was rather involved in the previous round of public hearings. So in deference to that abutter and other abutters across the street who might be interested, I recommend that this have a public hearing.

Commissioner Aieta: Didn't we, at this location, I remember the woman coming in that lives next door, and didn't we do something, she was adamant about a fence.

Chairman Hall: And they did it.

Commissioner Aieta: And that's on here still. There was not parking in this location before? They just parked.....

Craig Minor: Along the side. It was on-street parking so to speak, on the driveway.

Commissioner Aieta: I would like to see the original and the additions.....

Craig Minor: Well, there will be a detailed plan, in fact it arrived just this afternoon, and we will certainly have that for the hearing.

Chairman Hall: And the neighbor will be....

Craig Minor: Notified.

Chairman Hall: Okay, and then the other one we added tonight.....

Craig Minor: Right, this is for the Farmer's Market that was approved last year for three years, so Val is in the second of the three years, and she contacted me a couple of weeks ago to see if there was something she could do to attract more business because she feels that not enough people realize that there is a Farmer's Market in Newington. So I met her out at the parking lot and walked around and looked for spots that might be amenable for a free standing sign and actually what we came up with, and I just passed this around a few minutes ago, she sent this to me earlier today, what, my suggestion, but it's her application, what she is proposing to do is put these new Farmer's Market signs inside these two existing town owned or EDC owned, that still has to be worked out, sign. Now, at the moment, she does not have approval yet from whoever it is that owns those signs, and there is a discussion going around as to who does own those signs, is it the EDC, it is the Town Council, who owns those signs? What agency can sign off, what agency speaks, I'm using the phrase, owner of it? Is it the Economic Development Commission, is it the Town Council, is it Parks and Rec? It's really never been answered, and it might not be answered tonight either, we might kick it down the street some more, but in any event, that's where she is proposing to put these signs that are allowed under the regs, the free standing sign that any merchant is allowed with a special permit.

Commissioner Aiet: Is this a permanent sign?

Craig Minor: No, they will just be there during the summer.

Chairman Hall: I think we start with the Town Manager and find out because I think he will give us the answer as to who owns those signs, and I think he might say, I do. So, let's start with him.

Craig Minor: I will do that.

Commissioner Anest: And can we just get, I'm just concerned about when you pull out, the sight lines, so can somebody do a report on that?

Craig Minor: Yes.

Commissioner Aieta: You should check the sight lines because I think you can see under, definitely check the sight lines.

Commissioner Anest: This way, if we have things done ahead of time, because I know they want to start.

Chairman Hall: I think that will start probably right around the time we have our meeting.

Craig Minor: Well, she'll start the market because she has her permission for the market.

Commissioner Anest: I know, but it's still nice to have it all.

Craig Minor: So I'm recommending June 11th for both of those.

Chairman Hall: Yes. That would be it, just those two for now?

Craig Minor: Yes.

X. TOWN PLANNER REPORT

A. Town Planner Report for May 28, 2014

Craig Minor: Zoning Enforcement Issues raised at the previous meeting, there should be on the table a memo from the Zoning Enforcement Officer. I'll read it, it's his memo, and then an attachment, the Health Director's comments. I'll just read it, it's quick. "The above captioned site is located in the PD Zone which allows retail sale by right. The renovations entail approximately 4,000 square feet for pet products and related items, approximately 192 square feet will be assigned to a self-service dog wash. The wash area is an accessory to the retail space and less than five percent of the floor area is devoted to it, and it is offered as a commercial feature to the pet owner. Furthermore the grocery store is separated from the pet store and no dogs are allowed in the grocery store. The Central Connecticut Health District has reviewed the plans and finds them to be acceptable. Similar stores are in operation in Cromwell, West Hartford, Ridgefield and Stamford, Connecticut. So although I share your quizzical looks and shaking of heads, but it's permitted.

Commissioner Aieta: Where in Cromwell and West Hartford? There's no Stew Leonard's.

Chairman Hall: No, it's not in a Stew Leonard's. I wonder if it's a stand alone dog wash.

Commissioner Anest: Down state has the same thing. Norwalk, there is one that has, I was told, that has the same thing.

Chairman Hall: If we could find out from Stew Leonard's where, because it could be Danbury, could be Norwalk,

Commissioner Anest: I was told that there was one next door to their store.

Chairman Hall: And is there going to be any entrance from the store into the pet part, or is it going to be a total stand alone where you have to go out.

Commissioner Aieta: The contractor is already there working. I haven't gone into the space to look, but it's where the, it's on the side of the building where the garden center is, the northeast corner of the building.

Commissioner Anest: But it's a solid wall.

Commissioner Aieta: I'm assume that it is, I haven't gone inside. It just struck me as strange as having a dog wash in a grocery store. I have no objection to them having a store that sold dog food and pet supplies and stuff like that, but now I find out that it's a self-cleaning thing, I just have this picture that doesn't sit right in my mind.

Commissioner Camillo: There is one in Berlin on Farmington Avenue.

Chairman Hall: But it's a stand along, well, it's in a strip.

Commissioner Aieta: I brought it up because I didn't think the Zoning Enforcement Officer has the authority to grant this.

Commissioner Leggo: This sounds like a stand alone, I mean, not a stand alone building, but a business because it says there is no entrance, no dogs, no pets are going to be in the grocery store.

Chairman Hall: I would hope not. I think the bigger question at the time was, should they have come to us before they started this whole thing, and apparently the answer is no?

Craig Minor: Well, in hindsight, if I had known, I would have just mentioned it to you under my staff report.

Chairman Hall: And we would have said, okay, let's put it on the agenda.

Craig Minor: But put on the agenda for what? It doesn't require a special permit, it's an as of right, you can certainly ask questions, absolutely.

Commissioner Aieta: It was originally the bakery, so it's a change of use from the bakery, to a dog wash operation.

Craig Minor: But you don't approve change of use, you only approve them if they go to a Special Exception use. Permitted uses, I don't even see them until they become a problem, like this one.

Commissioner Anest: And dog washes are permitted.

Craig Minor: His position is that it is a personal service. I said, that's an interesting argument.

Commissioner Aieta: Wait, wait, who's opinion was that?

Craig Minor: Art Hanke

Commissioner Aieta: Art does not interpret the regulations.

Craig Minor: Yes he does. Everyday he does it.

Commissioner Aieta: Well, he's doing it against the wishes of this Commission, okay? These people, these people, the ones right around this table are the ones that interpret the regulations. You know that.

Craig Minor: If there is a conflict then certainly your opinion prevails, but as I said, not flippantly, every minute of every day he makes an interpretation of what the regs mean.

Commissioner Aieta: Well, that's one of the problems that we have is that he's making these assumptions that he can go out and act in the authority of this Commission. He does not have the authority to do that. This Commission interprets the regulations, and if we take that away from us, then you may as well not have this Commission. Just have Art do everything.

Craig Minor: He's not taking it away from you.

Commissioner Aieta: Some of the problems that we have had in the past because he takes it upon himself to act in this manner, without bringing it to this Commission to make those judgments that we have the authority to make.

Craig Minor: He doesn't make the regulations, he makes them work, but if you don't agree with the way he makes them work, then instruct him and he'll modify accordingly.

Chairman Hall: Well that's why this came back tonight, because we did raise some questions. So, as long as we still have the ability to do that, which of course we do by right....

Commissioner Aieta: But it's after the fact.

Chairman Hall: It's after the fact, it's after the cow is out of the barn, I understand that, but I just, I was confused by the fact that that use would be acceptable. I just don't, I guess because it is not disallowed, because there is nothing in our regulations, so.....

Commissioner Aieta: Our regulations are permissive regulations, so if it's not listed in the regulations, it's not allowed. I don't see where in the regulations.....

Craig Minor: Well, that's a rule of thumb. That doesn't, your regulations don't say that book stores are allowed, your regulations say that retail is allowed. Your regulations allow personal service, I don't think, I don't define personal service.....

Commissioner Aieta: A dog washing is not personal service. Personal service is a beauty salon, a nail salon, that's personal people, not dogs.

Chairman Hall: Stan, can you get us out of this?

Commissioner Sobieski: No, I don't think so. Obviously there are no health issues here between having a dog grooming area close to a supermarket, or a food distribution place. I know in some cities and towns there are ordinances on the books, and the other issue that I have is, how much traffic do they anticipate with this.

Craig Minor: From what Art said, it's five percent of the floor area, so it can't be very much, but I don't know.

Chairman Hall: It's a 4,000 square foot operation, so five percent of that, 200 square feet.

Commissioner Andrzejski: I have a question about the storage used for both Stew Leonard's and this new dog washing operation. That is also going to be it's own separate entity? There is no combination of the two?

Commissioner Anest: I think what Frank is trying to say is that you need to err on the side of caution. So when there is a very fine line, talk to Cathy and see if it needs to be brought before us. I think that would alleviate a lot of this.

Craig Minor: This is a gray area where a more conservative Zoning Enforcement Officer would have brought to the Chairman and said, is this a round peg, a square peg, which category does this fit in. Our ZEO felt that it was clearly a retail or personal service use, both of which are allowed as of right, and that's why he felt comfortable approving it.

Chairman Hall: I think at this point, just as a point of order you go back to him and say that we disagree with that.

Craig Minor: I will definitely do that.

Chairman Hall: As I said, the cow is out of the barn squarely, but I think this is one thing that we would have liked to at least.....

Craig Minor: I will make him aware of that.

Commissioner Aieta: You've got to make him aware of that, if there is a slight question, he should bring it to you, which you are his boss, you will bring it to the Chairman and she will disseminate that information to the members and we will make the determination if it has to come here or not. It's as simple as that.

Craig Minor: The staff approves the permitted uses, this board approves the special exception uses, but Frank's point is well taken, that this is one that the ZEO should have brought to the Chairman.

Chairman Hall: Yeah, because the interpretation that the dog washing was personal grooming, or personal service or whatever.

Commissioner Camillo: Shouldn't that have been brought to you?

Craig Minor: I didn't know, I learned about it here. Art does come to me with the ones that he thinks are questionable, he'll run them by me, this one he felt confident about, so he didn't. But I will make sure that he understands how you feel about this, so in the future when he gets any that are anything like this, he will bring it to me first, and I will bring it to the Chairman.

Commissioner Anest: Tell him next time he drives down the Berlin Turnpike, not to have blinders on, and look at all the signs that are still up there.

Commissioner Camillo: Who is this Bonnie Fratocki?

Craig Minor: Bonnie Fratocki is the part time person who is here two days a week, to fill in for him because he is here three days a week.

Commissioner Aieta: So he retired and we took him on as per diem.

Craig Minor: He's transitioning into retirement.

Commissioner Camillo: And will she take the time for the signs on the highway and you know.....

Craig Minor: Thanks for asking me, we started talking about it the other day and got distracted. I'll go back to it.

Commissioner Anest: They are there all of the weekends. I've been taking pictures.

Commissioner Sobieski: The one in the center of town is up there every Saturday and Sunday.

Commissioner Anest: Two of them, at either end of the street now.

Commissioner Aieta: And people are sophisticated enough to know that you guys don't work on the weekend.

Craig Minor: We are due for a weekend cruise, but I didn't pin them down for a date, but I'll do that.

Is this done, can we turn the page?

Chairman Hall: I think so.

Craig Minor: Okay. Old Performance Bonds, I didn't get to. Didn't get to them this past week. Actually two things came up but I'm not prepared to get motions for you. I will have a bond recommendation release for the residential house and I got a response from the owner whose driveway encroached into his neighbor's property, they are still trying to work out a resolution to that.

The Newington Junction TOD planning, the consultants final report which contains most of the information that was presented at the May 1st meeting has been distributed to the members of the planning committee, the next meeting of the committee as of this writing has not been scheduled. I contacted the Chairman and asked him what his pleasure is, as to when we would have the next meeting, I haven't gotten a reply from him. I know that CCROG has asked to meet with the town leadership and possibly the committee, I'm not sure, I think basically so that they can close out the project from their point of view. It's no where near closed out from our point of view, but from CCROG's, I think they want to close it out, but that meeting hasn't been set up either.

Revision to the sign regulations, we were supposed to meet today, but I'm sorry, I should have sent out a reminder to people, I didn't, so we didn't meet, so we will meet June 11th at 3:45.

Status of Modern Tire, I have nothing new to report on that.

XI. COMMUNICATIONS

None

XII. PUBLIC PARTICIPATION (for items not listed on the agenda; speakers limited to two minutes)

None

XIII. REMARKS BY COMMISSIONERS

None

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: None. It's almost ten o'clock, but we did start a half hour later. So, for the next time when we get our packets please look at that situation on Packards Way. We should have a lot of information on that. If you have any questions or comments, don't hesitate to call before the next meeting.

Craig Minor: Just a housekeeping thing. I'm going to be on vacation the week of June 2nd, which means I won't be able to get the agenda package out until I come back on Monday of the week of the meeting, so I can hand deliver them.

Chairman Hall: Can you just send out that information ahead? The Packards Way stuff.

Craig Minor: The PDF of the package.

Cindy does do that for you right? She PDF's it to you on Friday, I will do as much of it as I can the day after tomorrow before I leave for a whole week, but.....

Commissioner Aieta: You'll have to change your plans.

Craig Minor: Yeah, I'll tell my wife, you asked me.....

Commissioner Camillo: I don't think that was a request.

Craig Minor: I'll do as much of it as I can before I leave, and I'll send it to you before I leave, but the bulk of it I think I won't be able to get to you before Monday. I'll e-mail it to you, so you will have it Monday night.

Chairman Hall: Okay, well, we have this one, if we could get that Certificate of Action, that first one.....

Craig Minor: I can do that, I can do all that before I go. Then you can have your time to digest it. There's a lot there. I will definitely do that before I leave.

XV. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 9:57 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary